

Max Folkenflik, Esq.  
FOLKENFLIK & McGERITY  
1500 Broadway  
21<sup>st</sup> Floor  
New York, New York 10036  
(212) 757-0400  
[mfolkenflik@fmlaw.net](mailto:mfolkenflik@fmlaw.net)  
*Attorneys for Gutmacher Enterprises, L.P.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

Vs.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

**OBJECTION OF GUTMACHER  
ENTERPRISES, L.P. TO  
TRUSTEE'S DETERMINATION  
OF CLAIM AND REQUEST FOR  
A HEARING**

Gutmacher Enterprises, L.P. ("GEL"), by its attorneys Folkenflik & McGerity, hereby objects to the Notice of Trustee's Determination of Claim dated August 28, 2009 sent by Irving H. Picard and states as follows:

**BACKGROUND FACTS**

1. Commencing on or about March 6, 1998, and continuing through December 11, 2008, the date of the filing of this proceeding, GEL maintained an account with Bernard L. Madoff Investment Securities, LLC ("BLMIS"), account no. GO299 (the "GEL Account").
2. As of November 30, 2008, the GEL Account showed a positive cash balance of \$2,187,510.38, comprised of a positive balance of specifically identified publicly-traded stocks, treasury bills and money market funds of \$2,219,470.38, and a negative balance in S&P index funds (long positions minus short positions) of -\$31,960.

3. The investment instruments which were identified as being held in the GEL account on November 11, 2008, were all “securities” as that term is used in the Securities Investor Protection Act (“SIPA”). As of December 11, 2008, all of the investments held in the GEL account was reported to be held in securities within the meaning of that term under SIPA.
4. In June, 2009, GEL filed a claim with Irving H. Picard, Trustee appointed by the Securities Investor Protection Corporation (“SIPC”) for BLMIS (the “Trustee”), designated as Claim Number 011111. Following the instructions of the Trustee to account for only deposits and withdrawals, but without prejudice to GEL’s right to assert that the proper computation of the loss of securities in the GEL account should be based on the balances shown on the November 30, 2008 statement, claimant computed the “net equity” in the account.
5. Because of the effect of the applicable statutes of limitation and because the reported returns on the Madoff investments were not disproportionate to the returns on a well-managed equity account during the period up to December 2002, Claimant believes that the appropriate starting balance for the computation of the losses in the account is the balance shown on the monthly statement for the account as of 6 years prior to December 11, 2008. Claimant submits this claim on that basis. Claimant has used the November 30, 2002 balance as the last balance available to Claimant before December 11, 2002. Pursuant to the above methodology, GEL submitted a claim for loss of securities in the value of \$191,013.00. The Schedule of Deposits and Withdrawals submitted by GEL to the Trustee is annexed as Exhibit A.

6. By notice dated August 28, 2009, the Trustee issued a Determination of Claim (the "Trustee's Determination," a copy of which is annexed as Exhibit B). The Trustee's Determination rejected the Claimant's claim for securities and rejected the claim for any amount of loss. Instead, the Trustee concluded that computing the deposits from March 3, 1998, and the withdrawals, which started on February 2, 2000, led to a computation of withdrawals in excess of deposits in the amount of \$2,875,000.00.

7. GEL hereby objects to the Trustee's Determination and each and every part thereof, and requests a hearing before the court to correctly determine the claim of GEL.

**THE TRUSTEE'S DETERMINATION DENYING GEL'S CLAIM FOR SECURITIES IN THE GEL ACCOUNT WAS IN ERROR.**

8. The Trustee determined to deny GEL's claim for securities apparently based on the claim that "No securities were ever purchased for your account." Trustee's Determination at 1. GEL has not seen the books and record of BLMIS, and therefore is unable to verify the truth of that statement. In all events, the actual purchase of securities for the GEL account is not the standard in this Circuit for determining whether a claimant has a "securities claim" under SIPA. Instead, binding Second Circuit authority provides that "the Claimants in this case should be treated as having claims for securities because the confirmations and account statements that they received from the Debtors stated that the Claimants held securities in their accounts." *In re New Times Sec. Servs.*, 371 F.3d 68, 87 (2d Cir. N.Y. 2004), *citing* Amicus Curiae Brief filed by the Securities and Exchange Commission at 8. GEL received confirmations for each trade and an account statement each month. The final account statement dated November 30, 2008, (Exhibit C), "stated that the Claimant[ ] held securities in [its] accounts." The Trustee and this Court are bound

to follow the decision of the Second Circuit. The Trustee's Determination must be reversed in this respect.

**THE TRUSTEE'S DETERMINATION THAT GEL'S NET EQUITY  
MUST BE DETERMINED BY SUBTRACTING WITHDRAWALS  
FROM DEPOSITS WAS IN ERROR.**

9. The Trustee determined that the net equity of GEL's account should be determined by subtracting the total withdrawals from the total deposits in the GEL accounts. This approach does seem to be consistent with the approach adopted by the Second Circuit in *In re New Times*. However, GEL believes this approach to be in error in this case for two separate and independently sufficient reasons.

10. First, in this case to apply such a rule would be to effectively apply the fraudulent conveyance rules to distributions which occurred more than six years ago, and thus are immune from attack based on the applicable statute of limitations for fraudulent conveyances. *See*, N.Y. C.P.L.R. 213. GEL believes that the Trustee must take as his starting balance in the GEL accounts the amount which was reported on the BLMIS statements for the GEL accounts six years prior to December 11, 2008. The balance in the GEL accounts as of December 11, 2006, as shown on the account statement of November 30, 2002, was \$2,816,013.00. Using that starting balance, the Trustee should have determined that the "net equity" in the GEL Account as of December 11, 2008, was \$191,013.00. The Trustee's determination to deny GEL's claim in that amount was in error.

11. Second, GEL respectfully asserts that for the purpose of determining "net equity" disregarding of the amounts of earnings and interest shown on BLMIS account statements is inconsistent with SIPA and its legislative history and entirely illogical and unsupportable. In *In re New Times*, the Second Circuit reviewed at length "the language of the statute, its

purposes of protecting investors and inspiring confidence in the securities markets, and the specific history surrounding the drafting of the relevant language found in section 9(a)(1) of SIPA, 15 U.S.C. § 78fff-3(a)(1)..." *Id.* at 87. Section 9(a)(1) relates to distinguishing "cash" from "securities" for the purpose of determining the amount of SIPC insurance protection an investment has. The Second Circuit and the SEC concluded that "When a customer has been sent confirmations and account statements reflecting his securities purchases and showing that he holds the securities in his account, his claim, in the Commission's view, involves the debtor's function as securities custodian and is one for securities ... " *In re New Times Sec. Servs.*, 371 F.3d at 87. However, there is nothing in the purpose of the act, the language of the statute, or the legislative history which would allow the character of the holdings in the account to be characterized as securities, and the broker's conduct to be one of a "securities custodian," and to nonetheless ignore those conclusions when determining whether to credit the customer for profits and losses in those "securities."

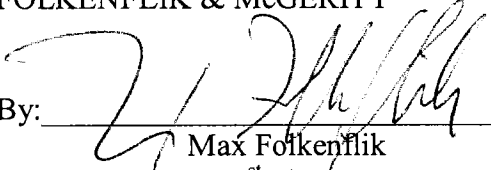
12. The Second Circuit and SEC argued that to credit the customer with such profits and losses would be to base recovery on "fictitious amounts in the [brokerage] firm's books and records [and] would allow customers to recover arbitrary amounts that necessarily have no relation to reality..." *In re New Times Sec. Servs.*, 371 F.3d at 88, *citing* Amicus Curiae Brief filed by the Securities and Exchange Commission at 16. To the contrary, however, the amounts are not merely found on the brokerage firm's books, but are publicly available securities trading records, found in published newspapers, magazines, and in numerous online sources. The trading profits and losses shown on the BLMIS account statements were consistent with the public information available to GEL and in fact represented the profits

and losses which would have been realized if the securities shown in the GEL accounts had in fact been purchased. Therefore, it is neither "irrational" nor "unworkable" to give the customer the benefits of trading in securities which should have been in the customer's account, but were not. What is irrational is to conclude, and the Second Circuit and SEC conceded they must, that Congress intended to treat securities shown in confirmations and monthly statements as securities which were purchased, even if they were not, but to deny the customer the benefits of holding those securities.

Dated: New York, New York  
September 28, 2009

Respectfully submitted,

FOLKENFLIK & McGERITY

By:   
Max Folkenflik  
1500 Broadway, 21<sup>st</sup> Floor  
New York, New York 10036  
(212) 757-0400

*Attorneys for Gutmacher Enterprises, L.P.*

# EXHIBIT A

**CLAIM OF GUTMACHER ENTERPRISES**  
Schedule of Deposits and Withdrawals  
Bernard L. Madoff Investment Securities LLC.  
Account No. 1-G0299

From 8-31-97 to 11-30-08

Transaction	Date	Amount	
<b>Balance As of:</b>	<b>11/30/2002**</b>	<b>\$2,816,013.00</b>	
Withdrawal	3/24/03*	\$300,000.00	
Withdrawal	6/13/03*	\$300,000.00	
Withdrawal	11/19/03*	\$250,000.00	
Withdrawal	3/12/04*	\$200,000.00	
Withdrawal	3/24/05*	\$200,000.00	
Withdrawal	5/4/05*	\$200,000.00	
<b>Contribution</b>	9/29/05*	\$2,000,000.00	
Withdrawal	5/23/06	\$300,000.00	
Withdrawal	12/19/06	\$150,000.00	
Withdrawal	4/11/07	\$200,000.00	
Withdrawal	6/19/07	\$200,000.00	
Withdrawal	9/6/07	\$250,000.00	
Withdrawal	10/18/07	\$200,000.00	
Withdrawal	1/15/08	\$200,000.00	
Withdrawal	2/21/08	\$525,000.00	
Withdrawal	4/18/08	\$250,000.00	
Withdrawal	7/02/08	\$150,000.00	
Withdrawal	7/31/08	\$150,000.00	
Withdrawal	9/25/08	\$200,000.00	
Withdrawal	10/20/08	\$100,000.00	
Withdrawal	11/06/08	\$300,000.00	
<b>Net Deposits Total</b>			<b>\$191,013.00</b>

\*Claimants have been unable to confirm these against actual BMIS statements

\*\* Because of the effect of the applicable statutes of limitation and because the reported returns on the Madoff investments were not disproportionate to the returns on a well managed equity account during the period up to December 2002, Claimant believes that the appropriate starting balance for the computation of the losses in the account is the balance shown on the monthly statement for the account as of 6 years prior to December 11, 2008. Claimant submits this claim on that basis. Claimant has used the November 30, 2002 balance as the last balance available to Claimant before December 11, 2002. Claimant's claim is without prejudice to Claimant's right to assert that the amount of the loss should be computed based on the reported statement values as of December 11, 2008, should a court determine that such an approach is appropriate.



# EXHIBIT B

**COPY**

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

In Liquidation

**DECEMBER 11, 2008<sup>1</sup>**

**NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM**

August 28, 2009

Gutmacher Enterprises  
c/o Barbara Girard  
The New York Palace  
455 Madison Ave.  
New York, NY 10022

Dear Ms. Girard:

**PLEASE READ THIS NOTICE CAREFULLY.**

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim on BLMIS Account No. 1G0299 designated as Claim Number 011111:

Your claim for a credit balance of \$191,013.00 and for securities is **DENIED**. No securities were ever purchased for your account.

Further, based on the Trustee's analysis, the amount of money you withdrew from your account at BLMIS (total of \$9,275,000.00), as more fully set forth in Table 1 annexed hereto and made a part

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<sup>1</sup> Section 78lll(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 78lll(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.

hereof, is greater than the amount that was deposited with BLMIS for the purchase of securities (total of \$6,400,000.00). As noted, no securities were ever purchased by BLMIS for your account. Any and all profits reported to you by BLMIS on account statements were fictitious.

Since there were no profits to use either to purchase securities or to pay you any money beyond the amount that was deposited into your BLMIS account, the amount of money you received in excess of the deposits in your account (\$2,875,000.00) was taken from other customers and given to you. Accordingly, because you have withdrawn more than was deposited into your account, you do not have a positive "net equity" in your account and you are not entitled to an allowed claim in the BLMIS liquidation proceeding. Therefore, your claim is **DENIED** in its entirety.

Should a final and unappealable court order determine that the Trustee is incorrect in his interpretation of "net equity" and its corresponding application to the determination of customer claims, the Trustee will be bound by that order and will apply it retroactively to all previously determined customer claims in accordance with the Court's order. Nothing in this Notice of Trustee's Determination of Claim shall be construed as a waiver of any rights or claims held by you in having your customer claim re-determined in accordance with any such Court order.

Nothing in this Notice of Trustee's Determination of Claim shall be construed as a waiver of any rights or claims held by the Trustee against you.

**PLEASE TAKE NOTICE:** If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court **and** the Trustee within **THIRTY DAYS** after August 28, 2009, the date on which the Trustee mailed this notice.

**PLEASE TAKE FURTHER NOTICE:** If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.


**PLEASE TAKE FURTHER NOTICE:** If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for  
the Southern District of New York  
One Bowling Green  
New York, New York 10004

and

Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
45 Rockefeller Plaza  
New York, New York 10011



---

Irving H. Picard

Trustee for the Liquidation of the Business of  
Bernard L. Madoff Investment Securities LLC


cc: Folkenflik & McGerity  
1500 Broadway  
New York, NY 10036

cc: Family Management Corp.  
485 Madison Ave.  
New York, NY 10022

DEPOSITS		
DATE	TRANSACTION DESCRIPTION	AMOUNT
3/6/1998	CHECK WIRE	\$1,000,000.00
4/24/1998	CHECK WIRE	\$1,000,000.00
6/30/1998	CHECK WIRE	\$2,000,000.00
3/22/2001	STOP PAYMENT	\$400,000.00
9/20/2005	CHECK WIRE	\$2,000,000.00
<b>Total Deposits:</b>		\$6,400,000.00
WITHDRAWALS		
DATE	TRANSACTION DESCRIPTION	AMOUNT
2/2/2000	CHECK	(\$900,000.00)
8/29/2000	CHECK	(\$400,000.00)
10/19/2000	CHECK	(\$300,000.00)
12/19/2000	CHECK	(\$300,000.00)
3/15/2001	CHECK	(\$400,000.00)
3/23/2001	CHECK	(\$400,000.00)
4/30/2001	CHECK	(\$500,000.00)
2/20/2002	CHECK	(\$350,000.00)
4/25/2002	CHECK	(\$250,000.00)
6/21/2002	CHECK	(\$250,000.00)
8/16/2002	CHECK	(\$300,000.00)
10/7/2002	CHECK	(\$300,000.00)
3/20/2003	CHECK	(\$300,000.00)
6/13/2003	CHECK	(\$300,000.00)
11/19/2003	CHECK	(\$250,000.00)
3/2/2004	CHECK	(\$200,000.00)
3/23/2005	CHECK	(\$200,000.00)
5/3/2005	CHECK	(\$200,000.00)
5/23/2006	CHECK	(\$300,000.00)
12/19/2006	CHECK	(\$150,000.00)
4/11/2007	CHECK	(\$200,000.00)
6/19/2007	CHECK	(\$200,000.00)
9/6/2007	CHECK	(\$250,000.00)
10/18/2007	CHECK	(\$200,000.00)
1/15/2008	CHECK	(\$200,000.00)
2/21/2008	CHECK WIRE	(\$525,000.00)
4/18/2008	CHECK	(\$250,000.00)
7/2/2008	CHECK	(\$150,000.00)
7/31/2008	CHECK	(\$150,000.00)
9/25/2008	CHECK	(\$200,000.00)
10/20/2008	CHECK	(\$100,000.00)

11/6/2008	CHECK	(\$300,000.00)
<b>Total Withdrawals:</b>		(\$9,275,000.00)
<b>Total deposits less withdrawals:</b>		(\$2,875,000.00)

# EXHIBIT C



**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York □ London

**885 Third Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343**

12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

\*\*\*DUPLICATE\*\* FOR ACCOUNT  
JAN SUCIC  
C/O FAMILY MANAGEMENT

485 MADISON AVE 19TH FLOOR  
NEW YORK NY 10022

174166

**YOUR ACCOUNT NUMBER**  
**1-60299-3-0**

PERIOD ENDING  
11/30/08

PAGE 1

VOLUNTARY IDENTIFICATION NUMBER  
\*\*\*\*\*9204

BOUGHT RECEIVED	SOLD DELIVERED	TIN	DESCRIPTION	PRICE OR SYMBOL	AMOUNT DEBITED TO YOUR ACCOUNT	AMOUNT CREDITED TO YOUR ACCOUNT
24,681	325,000	48104	BALANCE FORWARD		172,385.98	
			CHECK U S TREASURY BILL DUE 2/12/2009	CM 99.902	300,000.00	324,681.50
			FIDELITY SPARTAN U S TREASURY MONEY MARKET	1	24,681.00	
1,222		3611	WAL-MART STORES INC	55.830	68,272.26	
799		4113	INTERNATIONAL BUSINESS MACHS	87.270	69,759.73	
2,961		7937	EXXON MOBIL CORP	72.890	215,915.68	
3,243		8439	INTEL CORP	14.510	47,184.93	
1,551		12765	JOHNSON & JOHNSON	59.580	92,470.58	
2,115		17090	J.P. MORGAN CHASE & CO	38.530	81,574.95	
1,128		21416	COCA COLA CO	44.660	50,421.48	
658		25742	MCDONALDS CORP	55.370	36,459.46	
1,222		30068	MERCK & CO	28.550	34,936.10	
4,465		34394	MICROSOFT CORP	21.810	97,559.65	
2,256		38720	ORACLE CORPORATION	17.300	39,118.80	
893		51698	PEPSICO INC	56.410	50,409.13	
517		52200	APPLE INC	100.780	52,123.26	
3,807		56024	Pfizer Inc	16.940	64,642.58	
893		56526	ABBOTT LABORATORIES	54.610	48,801.73	
1,692		60350	PROCTER & GAMBLE CO	64.080		
611		60852	AMGEN INC	59.160		
			CONTINUED ON PAGE 2			
					24,681.00	
						324,681.50





**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York ☐ London

**\*\*DUPLICATE\*\* FOR ACCOUNT GUTMACHER ENTERPRISES L P**  
JAN SUCIC  
C/O FAMILY MANAGEMENT

485 MADISON AVE 19TH FLOOR  
NEW YORK NY 10022

885 Third Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343  
Fax (212) 838-4061

Madoff Securities International Limited  
12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

YOUR ACCOUNT NUMBER  
1-G0299-3-0

PERIOD ENDING  
11/30/09

YOUR TAX PAYER IDENTIFICATION NUMBER  
\*\*\*\*\*9204

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2

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1,175		64676	PHILLIP MORRIS INTERNATIONAL	43.600	51,277.00	
2,820		65178	BANK OF AMERICA	21.590	60,995.80	
940		69002	QUALCOMM INC	33.770	31,780.80	
3,055		69504	CITI GROUP INC	12.510	38,340.05	
705		73328	SCHLUMBERGER LTD	49.480	34,911.40	
1,692		73830	COMCAST CORP	16.510	28,001.92	
			CL A			
3,337		77654	AT&T INC	27	90,232.00	
846		78156	CONOCOPHILIPS	52.510	44,456.46	
564		81980	UNITED PARCEL SVC INC	52.040	29,372.56	
			CLASS B			
3,431		82482	CISCO SYSTEMS INC	16.730	57,537.63	
987		86306	U S BANCORP	29.530	29,185.11	
1,175		86808	CHEVRON CORP	73.430	86,327.25	
564		90632	UNITED TECHNOLOGIES CORP	53.160	30,004.24	
5,969		91134	GENERAL ELECTRIC CO	19.630	117,409.47	
1,598		94958	VERIZON COMMUNICATIONS	30.410	48,658.18	
141		95460	GOOGLE	337.400	47,578.40	
1,974		99284	WELLS FARGO & CO NEW	29.800	58,903.20	
2,410		99786	HEWLETT PACKARD CO	34.900	49,265.00	
		21896	U S TREASURY BILL	99.936		
			DUE 2/12/2009			
			2/12/2009			
			FIDELITY SPARTAN			
			U S TREASURY MONEY MARKET			
			DIV 11/12/08			
			CONTINUED ON PAGE 3			
	2,100,000					2,098,656.00
						10.74



**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York ☐ London

885 Third Avenue  
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PAGE  
3

Madoff Securities International Limited  
12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

BOUGHT RECEIVED	SOLD DELIVERED	TRN	DESCRIPTION	PRICE OR SYMBOL	AMOUNT DEBITED TO YOUR ACCOUNT	AMOUNT CREDITED TO YOUR ACCOUNT
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		26364	FIDELITY SPARTAN U S TREASURY MONEY MARKET	1		.96
			FIDELITY SPARTAN U S TREASURY MONEY MARKET	DIV		
		51737	DIV 11/19/08 FIDELITY SPARTAN	1		7,862.00
125,000	7,862	56335	U S TREASURY MONEY MARKET U S TREASURY BILL DUE 03/26/2009	99.926	124,907.50	
		60776	3/26/2009 FIDELITY SPARTAN U S TREASURY MONEY MARKET	1	23,767.00	
23,767			NEW BALANCE		303,703.19	
3,337			SECURITY POSITIONS			
893			AT&T INC	MKT PRICE		
611			ABBOTT LABORATORIES	28.560		
517			AMGEN INC	52.390		
2,820			APPLE INC	55.540		
1,175			BANK OF AMERICA	92.670		
3,431			CHEVRON CORP	16.250		
			CISCO SYSTEMS INC	79.010		
				16.540		

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**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York ☐ London

**\*\*DUPLICATE\*\* FOR ACCOUNT GUTMACHER ENTERPRISES LP**  
JAN SUIC  
C/O FAMILY MANAGEMENT

485 MADISON AVE 19TH FLOOR  
NEW YORK NY 10022

885 Third Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343  
Fax (212) 838-4061

Madoff Securities International Limited  
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Tel 020 7493 6222

YOUR ACCOUNT NUMBER  
1-60299-3-0

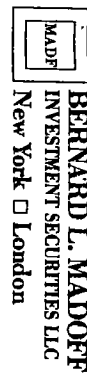
PERIOD ENDING  
11/30/08

PAGE  
4

YOUR TAX PAYER IDENTIFICATION NUMBER  
\*\*\*\*\*9204

BOUGHT RECEIVED	SOLD DELIVERED	TRN	DESCRIPTION	PRICE OR SYMBOL	AMOUNT DEBITED TO YOUR ACCOUNT	AMOUNT CREDITED TO YOUR ACCOUNT
3,055			CITI GROUP INC	8.290		
1,128			COCA COLA CO	46.870		
1,692			COMCAST CORP	17.340		
846			CL A			
2,961			CONOCOPHILIPS	52.520		
5,969			EXXON MOBIL CORP	80.150		
141			GENERAL ELECTRIC CO	17.170		
1,410			GOOGLE	292.960		
3,243			HEWLETT PACKARD CO	35.280		
799			INTEL CORP	13.800		
2,115			INTERNATIONAL BUSINESS MACHS	81.600		
1,551			J.P. MORGAN CHASE & CO	31.660		
658			JOHNSON & JOHNSON	58.580		
1,222			MCDONALDS CORP	58.750		
4,465			MERCK & CO	26.720		
2,256			MICROSOFT CORP	20.220		
893			ORACLE CORPORATION	16.090		
3,807			PEPSICO INC	56.700		
1,175			PFIZER INC	16.430		
1,692			PHILLIP MORRIS INTERNATIONAL	42.160		
940			PROCTER & GAMBLE CO	64.350		
705			QUALCOMM INC	33.570		
23,767			SCHLUMBERGER LTD	50.740		
			FIDELITY SPARTAN	1		
			U S TREASURY MONEY MARKET			

CONTINUED ON PAGE 5



**BERNARD L. MADOFF**  
INVESTMENT SECURITIES LLC  
New York ☐ London

**\*\*DUPLICATE\*\* FOR ACCOUNT GUTMACHER ENTERPRISES LP**  
JAN SUCIC  
C/O FAMILY MANAGEMENT

485 MADISON AVE 19TH FLOOR  
NEW YORK NY 10022

885 Third Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343  
Fax (212) 838-4061

Madoff Securities International Limited

12 Berkeley Street  
Mayfair, London W1J 8DT  
Tel 020 7493 6222

YOUR ACCOUNT NUMBER  
1-G0299-3-0

PERIOD ENDING  
11/30/08

YOUR TAX PAYER IDENTIFICATION NUMBER  
\*\*\*\*\*9204

PAGE  
5

BOUGHT RECEIVED	SOLD DELIVERED	TRN	DESCRIPTION	PRICE OR SYMBOL	AMOUNT DEBITED TO YOUR ACCOUNT	AMOUNT CREDITED TO YOUR ACCOUNT
987 564 125,000			U S BANCORP UNITED PARCEL SVC INC CLASS B U S TREASURY BILL DUE 03/26/2009 3/26/2009	26.980 57.600 99.971		
564 1,598 1,222 1,974			UNITED TECHNOLOGIES CORP VERIZON COMMUNICATIONS WAL-MART STORES INC WELLS FARGO & CO NEW MARKET VALUE OF SECURITIES LONG SHORT 2,219,470.38	48.530 32.650 55.880 28.890		

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YOUR ACCOUNT NUMBER  
1-60299-3-0

PERIOD ENDING  
11/30/08

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6

YOUR TAX PAYER IDENTIFICATION NUMBER  
\*\*\*\*\*9204

BOUGHT RECEIVED	SOLD DELIVERED	TRN	DESCRIPTION	PRICE OR SYMBOL	AMOUNT DEBITED TO YOUR ACCOUNT	AMOUNT CREDITED TO YOUR ACCOUNT
			YEAR-TO-DATE SUMMARY DIVIDENDS GROSS PROCEEDS FROM SALES			20,539.84 18,644,140.74



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INVESTMENT SECURITIES LLC  
New York ☐ London

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JAN SUCIC  
C/O FAMILY MANAGEMENT

485 MADISON AVE 19TH FLOOR  
NEW YORK NY 10022

885 Third Avenue  
New York, NY 10022  
(212) 230-2424  
800 334-1343  
Fax (212) 838-4061

Madoff Securities International Limited  
12 Berkeley Street  
Mayfair, London W1J 8BT  
Tel 020 7493 6222

YOUR ACCOUNT NUMBER  
1-60299-4-0

PERIOD ENDING  
11/30/08  
YOUR TAX PAYER IDENTIFICATION NUMBER  
\*\*\*\*\*9204

PAGE  
1

BOUGHT RECEIVED	SOLD DELIVERED	TIN	DESCRIPTION	PRICE OR SYMBOL	AMOUNT DEBITED TO YOUR ACCOUNT	AMOUNT CREDITED TO YOUR ACCOUNT
47	47	43046	BALANCE FORWARD	15.800		172,386.00
47	47	47372	S & P 100 INDEX NOVEMBER 460 CALL	17.800	83,707.00	74,213.00
47	47	33476	S & P 100 INDEX NOVEMBER 450 PUT	26		122,153.00
47	47	37801	DECEMBER 430 CALL	30	141,047.00	
47	47	42126	S & P 100 INDEX DECEMBER 420 PUT	3	14,147.00	
47	47	46451	S & P 100 INDEX NOVEMBER 460 CALL	37		173,853.00
			S & P 100 INDEX NOVEMBER 450 PUT			303,704.00
			NEW BALANCE			
			SECURITY POSITIONS			
			S & P 100 INDEX			
			DECEMBER 430 CALL			
			S & P 100 INDEX			
			DECEMBER 420 PUT			
			MARKET VALUE OF SECURITIES			
			LONG			
			77,550.00			
			SHORT			
			109,510.00-			